

**REMARKS**

Claims 1-43 are all the claims pending in the application.

A Declaration pursuant to 37 C.F.R. §1.131 is being submitted together with this response to antedate a primary reference cited against the claims of the Application. This Declaration is signed by the counsel of the Assignee of the instant application

**I. Claim Rejections: 35 USC §103(a)**

The Examiner rejected claims 1-2, 6-15, 20-24, 28-36, and 41-43 under 35 USC §103(a) as allegedly being unpatentable over Silver et al. (US Pat. 7,035,393) (hereinafter “Silver”) in view of Harms et al. (US Pub. No. 2003/0078981) (hereinafter “Harms”).

The Examiner also rejected claims 3-5 and 25-27 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Silver in view of Harms, and further in view of Sommerer (US Pub. No. 2002/0143879) (hereinafter “Sommerer”).

The Examiner then rejected claims 16 and 37 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Silver in view of Harms, and further in view of Mansfield (US Pub. No. 2003/0185365) (hereinafter “Mansfield”).

The Examiner then rejected claims 17, 19, 38 and 40 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Silver in view of Harms, and further in view of Yang (US Pat. 6,766,017) (hereinafter “Yang”).

The Examiner then rejected claims 18 and 39 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Silver in view of Harms, and further in view of Kang (US Pat. 7,110,529).

The Applicant herein submits that Silver is disqualified as a valid prior art reference under 35 USC §103(a) because the invention was conceived prior to the priority date of Silver, and the Applicant was diligent in reducing the invention to practice from prior to the priority date of Silver until the filing date of the instant Application.

The Applicant refers the Examiner to the Declaration pursuant to 37 C.F.R. §1.131 previously filed on April 4, 2008, that establishes the date of conception of the invention that is the subject matter of the current Application, to be a date at least prior to the priority date of Silver. This Declaration was accompanied by an invention disclosure and email correspondence submitting the invention disclosure to the Assignee's counsel on a date prior to the effective date of Silver on September 11, 2002. Silver does not appear to claim priority to an earlier filed application. Documents relating to communication between the inventor, the Assignee's counsel and the patent attorney were also enclosed with the Declaration and established diligence leading to the filing of the application on June 30, 2003.

The Applicant is additionally enclosing a second Declaration pursuant to 37 C.F.R. §1.131 that establishes diligence from the submission of the invention to Assignee's counsel leading to the filing of the application on June 30, 2003.

Accordingly, Silver may not be properly used as a prior art reference against the claims of the instant Application. Accordingly, the Applicant requests withdrawal of the rejections of the claims under 35 USC §103(a) based on Silver.

As the Examiner admits that Silver alone fails to clearly teach the features of the pending claims, the Applicant submits that the rejections of claims 1-43 under 35 USC §103(a) cannot be

maintained. Therefore, the Applicant respectfully requests the withdrawal of the rejections under 35 USC §103(a) and the allowance of claims 1-43.

## **II. Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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